

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ROBERT DUNN,)	
)	
Plaintiff,)	No. 07 C 6601
)	
v.)	
)	Judge Manning
THE HARTFORD LIFE AND HEALTH)	Magistrate Judge Valdez
INSURANCE COMPANY,)	
)	
Defendant.)	

MOTION FOR LEAVE TO AMEND THE COMPLAINT

Now comes the plaintiff, ROBERT DUNN, by his attorney, and pursuant to Rule 15(a) of the Federal Rule of Civil Procedure respectfully moves this Court for leave to amend his complaint. In support of this motion, the parties advise the Court that:

1. This is a claim for breach of a contract of disability income insurance issued to the plaintiff to provide monthly disability income benefits to plaintiff if he became disabled. Plaintiff also alleges that defendant is guilty of unreasonable and vexatious delay in its refusal to pay disability income benefits to the plaintiff, and that plaintiff is entitled to recover penalties and attorneys' fees pursuant to 215 ILCS 5/155.

2. Plaintiff received disability insurance coverage under a Group policy for members of B'nai Brith originally issued by Continental Casualty Company ("CNA"). During the course of the policy administration, the plan was converted from a CNA plan to one administered by The Hartford Life and Accident Insurance Company.

3. Plaintiff filed the present action on November 21, 2007 mistakenly listing the defendant as "The Hartford."

4. On January 15, 2008, Service of Process was waived by attorney representing The

Hartford Life and Accident Insurance Company.

5. Plaintiff learned of the misnomer upon receipt of the Answer to Complaint filed on March 11, 2008 by the defendant with this Court.

6. The proper defendant in this action, Hartford Life and Accident Insurance Company, has received such notice of the action as evidenced by the waiver of service so as not to prejudice maintaining their defense on the merits and had sufficient reason to know that, but for the misnomer, the action would have been brought against them.

7. According to Federal Rule of Civil Procedure 15(a), leave to amend shall be freely given when justice so requires. In this case, notice was given to the proper party within the 120-day time frame set forth in the Federal Rule of Civil Procedure 4(m).

8. Plaintiff now submits the attached proposed amended complaint attached as Exhibit 1 to this motion.

WHEREFORE, Plaintiff moves this Honorable Court grant his Motion for Leave to Amend Complaint.

Respectfully submitted,

/s/ David A. Bryant
David A. Bryant
One of the attorneys for Plaintiff

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CERTIFICATE OF SERVICE

TO: Donald Alan Murday
Joseph R. Jeffery
Chittenden, Murday & Novotny LLC
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The undersigned attorney hereby certifies that on March 13, 2008, he electronically filed the foregoing MOTION FOR LEAVE TO AMEND THE COMPLAINT with the Clerk of the Court using the CMF/ECF filing system, which sent notice of such filing to the above named attorneys, and that I hereby certify that I have mailed via the United States Postal Service the document to the following non-CMF/ECF participants: n/a

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